

the Act or this part and has determined that voluntary compliance cannot be achieved.

(2) Thirty days have elapsed after the Secretary has submitted a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. A report shall be filed whenever any action is taken under paragraph (a) of this section.

(e)(1) The Secretary may defer the provision of new Federal financial assistance to a recipient when termination proceedings under this section are initiated.

(2) New financial assistance from HUD includes all assistance for which HUD requires an application, approval, or submissions under the Community Development Block Grant program including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New financial assistance from HUD does not include increases in funding as a result of changed computation for formula awards or assistance approved before the beginning of a hearing under this section.

(3) HUD shall not impose a deferral until the recipient has received a notice of an opportunity for a hearing under this section. HUD shall not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. HUD shall not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding that the recipient has violated that Act or this part.

§ 146.41 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by this part; or

(b) Cooperates in any mediation, investigation, hearing, or other part of HUD's investigation, settlement, and enforcement process.

§ 146.43 Hearings, decisions, post-termination proceedings.

The provisions of 24 CFR part 180 apply to HUD enforcement of this part.

[61 FR 52218, Oct. 4, 1996]

§ 146.45 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and HUD had made no finding with regard to the complaint; or

(2) HUD issues any finding in favor of the recipient.

(b) If HUD fails to make a finding within 180 days or issues a finding in favor of the recipient, HUD shall:

(1) Promptly advise the complainant of this fact;

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That he or she may bring a civil action only in a United States District Court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action, the complainant must give 30 days' notice by registered mail to the Secretary of HUD, the Secretary of Health and Human Services, the Attorney General of the United States, and the recipient;

(iv) That the notice must state: the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.